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State reclamation plan no longer meeting the requirements of the Act or this chapter; or

(2) The State is not conducting its State reclamation program in accordance with the approved State reclamation plan.

(e) If the Director determines that a State reclamation plan amendment is required, the Director, after consultation with the State, shall establish a reasonable timetable which is consistent with established administrative or legislative procedures in the State for submitting an amendment to the reclamation plan.

(f) Failure of a State to submit an amendment within the timetable established under paragraph (e) of this section or to make reasonable or diligent efforts in that regard may result in either the suspension of the reclamation plan under § 884.16, reduction, suspension or termination of existing AML grants under § 886.18, or the withdrawal from consideration for approval of all grant applications submitted under § 886.15.

[51 FR 9444, Mar. 19, 1986]

§ 884.16 Suspension of plan.

(a) The Director may suspend a State reclamation plan in whole or in part, if he determines that—

(1) Approval of the State regulatory program has been withdrawn in whole or in part;

(2) The State is not conducting the State reclamation program in accordance with its approved State reclamation plan; or

(3) The State has not submitted a reclamation plan amendment within the time specified under § 884.15.

(b) If the Director determines that the plan should be suspended, the Director shall notify the State by mail, return receipt requested, of the proposed action. The notice of proposed suspension shall state the reasons for the proposed action. Within 30 days the State must show cause why such action should not be taken. The Director shall afford the State an opportunity for consultation, including a hearing if requested by the State and performance of remedial action prior to the notice of suspension.

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(c) The Director shall notify the State of his decision in writing. The decision of the Director shall be final.

(d) The Director shall lift the suspension if he determines that the deficiencies that led to suspension have been corrected.

[47 FR 28600, June 30, 1982, as amended at 51 FR 9444, Mar. 19, 1986]

§ 884.17 Other uses by certified States and Indian tribes.

(a) The State reclamation plan may provide for construction of specific public facilities in communities impacted by coal development. This form of assistance is available when the Governor of the State has certified, and the Director has concurred that—

(1) All reclamation with respect to past coal mining and with respect to the mining of other minerals and materials has been accomplished;

(2) The specific public facilities are required as a result of coal development; and

(3) Impact funds which may be available under the Federal Mineral Leasing Act of 1920, as amended, or the Act of October 20, 1978, Public Law 94-565 (90 Stat. 2662) are inadequate for such construction.

(b) Grant applications for uses other than coal reclamation by certified States and Indian tribes may be submitted in accordance with § 885.15 of this chapter.

[47 FR 28600, June 30, 1982, as amended at 73 FR 67642, Nov. 14, 2008]

PART 885—GRANTS FOR CERTIFIED STATES AND INDIAN TRIBES

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AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 73 FR 67642, Nov. 14, 2008, unless otherwise noted.

§ 885.1 What does this part do?

This part sets forth procedures for grants to you, a State or Indian tribe that has certified under § 875.13 of this chapter that all known coal reclamation problems in your State or on Indian lands within your jurisdiction have been addressed. OSM's "Final Guidelines for Reclamation Programs and Projects" (66 FR 31250, June 11, 2001) may be used if applicable.

§ 885.5 Definitions.

As used in this part—

Award means to approve our grant agreement authorizing you to draw down and expend program funds.

Distribute means to annually assign funds to a specific State or Indian tribe. After distribution, funds are available for award in a grant to that specific State or Indian tribe.

Reclamation plan or *State reclamation plan* means a plan that a State or Indian tribe submitted and that we approved under section 405 of SMCRA and part 884 of this chapter.

§ 885.10 Information collection.

In accordance with 44 U.S.C. 3501 *et seq.*, the Office of Management and Budget (OMB) has approved the information collection requirements for all Title IV grants and assigned clearance number 1029-0059. This information is being collected to obtain an estimate from you, the certified State or Indian tribe, of the funds you believe necessary to implement your program and to provide OSM with a means to measure performance results under the Government Performance and Results Act through your obligations of funds. Certified States and Indian tribes are required to respond to obtain a benefit in accordance with SMCRA. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it

displays a currently valid OMB control number.

§ 885.11 Who is eligible for a grant?

You are eligible for grants under this part if:

(a) You are a State or Indian tribe with a reclamation plan approved under part 884 of this chapter; and

(b) You have certified under § 875.13 of this chapter that all known coal problems in your State or on Indian lands in your jurisdiction have been addressed.

§ 885.12 What can I use grant funds for?

(a) For all awards under this part, you must use moneys for activities authorized in SMCRA and included in your approved reclamation plan or described in the grant application. In addition, you may use moneys granted under this part to administer your approved reclamation program.

(b) You may use grant funds as established for each type of funds you receive. You may use prior balance replacement funds as provided under § 872.31 of this chapter. You may use certified in lieu funds as provided under § 872.34 of this chapter. You may use any moneys which may be available to you from the Fund for noncoal reclamation as authorized under section 411 of SMCRA and part 875 of this chapter.

(c) You may use grant funds for any allowable cost as determined by the OMB cost principles in Circular A-87.

§ 885.13 What are the maximum grant amounts?

(a) You may apply at any time for a grant of any or all of the Title IV funds that are available to you.

(b) We will not award an amount greater than the total funds distributed to your State or Indian tribe in the current annual fund distribution less any previous awards of current year funds, plus any funds distributed to you in previous years but not awarded, plus any unexpended funds recovered from previous grants and made available to you under § 885.19 of this chapter.

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(c) Funds for the current fiscal year are available for award after the annual fund distribution described in § 872.13 of this chapter.

(d) Whenever you request it, we will give you information on the amounts and types of funds that are currently available to you.

§ 885.14 How long is my grant?

The performance period for your grant will be the time period you request in your grant application.

§ 885.15 How do I apply for a grant?

(a) You must use application forms and procedures specified by OSM.

(b) We award your grant as soon as practicable but no more than 30 days after we receive your complete application.

(c) If your application is not complete, we inform you as soon as practicable of the additional information we need to receive from you before we can process the award.

(d) You must agree to expend the funds of the grant in accordance with SMCRA, applicable Federal laws and regulations, and applicable OMB and Treasury Circulars.

§ 885.16 After OSM approves my grant, what responsibilities do I have?

(a) When we award your grant, we send you a written grant agreement stating the terms of the grant.

(b) After you are awarded a grant, you may assign functions and funds to other Federal, State, or local organizations. However, we will hold you responsible for the overall administration of that grant, including the proper use of funds and reporting.

(c) The grant award constitutes an obligation of Federal funds. You accept the grant and its conditions once you initiate work under the agreement or draw down awarded funds.

(d) Although we have approved the grant agreement, you must ensure that any applicable laws, clearances, permits, or requirements are met before you expend funds for projects other than coal reclamation under part 874.

(e) If you conduct a coal reclamation project under part 874 of this chapter, you must not expend any funds until we have ensured that all necessary ac-

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tions have been taken by you and us to ensure compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and any other applicable laws, clearances, permits or requirements.

(f) To the extent technologically and economically feasible, you must use fuel other than petroleum or natural gas for all public facilities that are planned, constructed, or modified in whole or in part with Title IV grant funds.

(g) You must not expend more funds than we have awarded. Our award of any grant does not commit or obligate the United States to award any continuation grant or to enter into any grant revision, including grant increases to cover cost overruns.

§ 885.17 How can my grant be amended?

(a) A grant amendment is a change of terms or conditions of the grant agreement. An amendment may be initiated by you or by us.

(b) You must promptly notify us in writing, or we must promptly notify you in writing, of events or proposed changes that may require a grant amendment.

(c) All requirements and procedures for grant amendments follow 43 CFR part 12.

(d) We must award your amended grant agreement within 20 days of receiving your request.

§ 885.18 What audit, accounting, and administrative requirements must I meet?

(a) You must comply with the audit requirements of the OMB Circular A-133.

(b) You must follow procedures governing grant accounting, payment, records, property, and management contained in 43 CFR part 12.

§ 885.19 What happens to unused funds from my grant?

All program grant funds are available until expended. If there are any unexpended funds after your grant is completed, we deobligate the funds when we close your grant. We make these unused funds available for re-award to the same certified State or Indian tribe

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to which they were originally distributed. You may apply for unused funds whenever you choose to request them either in a new grant award or as an amendment to an existing open grant.

§ 885.20 What must I report?

(a) For each grant, you must annually report to us the performance and financial information that we request.

(b) Upon completion of each grant, you must report to us final performance and financial information that we request.

(c) You must use the AML inventory to maintain a current list of AML problems and to report annual reclamation accomplishments with grant funds.

(1) If you conduct reclamation projects, you must update the AML inventory for each reclamation project you complete as you complete it.

(2) We must approve any amendments to the AML inventory after December 20, 2006. We define “amendment” as any coal problems added to the AML inventory in a new or existing problem area.

§ 885.21 What happens if I do not comply with applicable Federal law or the terms of my grant?

If you or your subgrantee materially fails to comply with an award, a reclamation plan, or a Federal statute or regulation, including statutes relating to nondiscrimination, we may take appropriate remedial actions. Enforcement actions and procedures must follow 43 CFR part 12.

§ 885.22 When and how can my grant be terminated for convenience?

Either you or we may terminate the grant for convenience following the procedures in 43 CFR part 12.

PART 886—RECLAMATION GRANTS FOR UNCERTIFIED STATES AND INDIAN TRIBES

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886.27 What special procedures apply to Indian lands not subject to an approved Tribal reclamation program?

AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 73 FR 67644, Nov. 14, 2008, unless otherwise noted.

§ 886.1 What does this part do?

This part sets forth procedures for grants to you, an uncertified State or Indian tribe, to reclaim eligible lands and water and conduct other activities necessary to carry out your approved reclamation plan. OSM’s “Final Guidelines for Reclamation Programs and Projects” (66 FR 31250, June 11, 2001) may be used as applicable.

§ 886.5 Definitions.

As used in this Part—

Award means to approve our grant agreement authorizing you to draw down and expend program funds.

Distribute means to annually assign funds to a specific State or Indian tribe. After distribution, funds are available for award in a grant to that specific State or Indian tribe.

Reclamation plan or *State reclamation plan* means a plan that a State or Indian tribe submitted and that we approved under section 405 of SMCRA and part 884 of this chapter.

§ 886.10 Information collection.

In accordance with 44 U.S.C. 3501 *et seq.*, the Office of Management and Budget (OMB) has approved the information collection requirements of part 886, and Forms OSM-47, OSM-49, and